

1971
IN THE
Supreme Court of the United States
FEB 22 1971
JAMES S. GIBSON, CLERK

October Term, 1970

No. 029

70-34

SERRA CLUB, a California corporation,

Petitioner,

vs.
WALTER J. HICKEL, individually, and as Secretary of the Interior of the United States; JOHN S. McLAUGHLIN, individually, and as Superintendent of Sequoia National Park; CLIFFORD M. HARDIN, individually, and as the Secretary of Agriculture of the United States; J. W. DEINEMA, individually, and as Regional Forester, Forest Service, and M. R. JAMES, individually, and as Forest Supervisor of the Sequoia National Forest,

Respondents.

Motion for Leave to File Brief Amicus Curiae on Behalf of United States Ski Association and Far West Ski Association in Opposition to the Petition for a Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit.

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Of Counsel:

HUNT, LILJESTROM & WENTWORTH.

IN THE
Supreme Court of the United States

October Term, 1970

No. 939

SIERRA CLUB, a California corporation,

Petitioner,

vs.

WALTER J. HICKEL, individually, and as Secretary of the Interior of the United States; JOHN S. McLAUGHLIN, individually, and as Superintendent of Sequoia National Park; CLIFFORD M. HARDIN, individually, and as the Secretary of Agriculture of the United States; J. W. DEINEMA, individually, and as Regional Forester, Forest Service, and M. R. JAMES, individually, and as Forest Supervisor of the Sequoia National Forest,

Respondents.

Motion for Leave to File Brief Amicus Curiae on Behalf of United States Ski Association and Far West Ski Association in Opposition to the Petition for a Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit.

To the Supreme Court of the United States:

The United States Ski Association and the Far West Ski Association, hereby respectfully move for leave to file a brief *amicus curiae* in this case in support of respondents, as provided in Rule 42 of the Rules of this Court. Respondents have consented to the filing of such a brief. Petitioner has not.

The Far West Ski Association ("Far West") is one of eight divisions of the United States Ski Association. Far West membership totals approximately 27,400 while the United States Ski Association represents over 109,000 American skiing enthusiasts.

The United States Ski Association and its regional divisions are nonprofit organizations which are the sanctioning bodies providing training, equipment, and financial support to the United States Ski Team in the winter Olympic Games and to United States teams in international competition during non-Olympic years.

The United States Ski Association and its divisions also engage in a number of activities designed to advance the sport as the major organization representing the recreational skiing public.

Representative examples of such activities are the publication of regional and national magazines and newspapers devoted to the promotion of the sport, funding and directing the National Ski Patrol System and local ski patrols in their activities with safety programs and avalanche control, certification of qualified ski instructors, maintaining high standards of ski instruction through the agency of the United States Ski Instructor's Association and its divisional counterparts, administering the United States Ski Coaching System and its divisional counterparts, serving as a liaison between the ski operators, the National Park Service, the United States Forest Service, and various state and local public and private agencies in the development of facilities and equipment and in fostering skiing safety, and promoting ski touring and mountaineering programs designed to achieve greater public appreciation and enjoyment of our wilderness areas.

The movants represent not only the skiing athlete but also the recreational skiing public and thus the entire spectrum of the sport.

One of the basic issues posed by this case concerns the Secretary of Agriculture's discretionary manage-

ment authority to issue a combination of term and revocable supplemental permits on Forest Service lands substantially similar to those under which over 80 ski resorts throughout the nation are presently operating.

Naturally, this case is of great importance to those persons represented by movants because of its obvious effect upon the Mineral King project and other skiing areas and by virtue of the fact that the Petitioner is attempting to overturn the Ninth Circuit overruling of the District Court's order granting a preliminary injunction enjoining issuance of a plan proposed by Walt Disney Productions, Inc., in and near Mineral King Valley in the Sequoia National Game Refuge located within the Sequoia National Forest in California.

And, this case has implications extending far beyond the situation now before the Court. Accordingly, as the principal spokesmen for the American skier, movants desire the opportunity to present their views on this matter to the Court. While movants are deeply concerned and in agreement with all of the issues raised by the respondents, movants' *amicus curiae* brief, presenting an in depth analysis of this issue and its ultimate effect on the national skiing public, industry and economy, dissimilar from the presentation of respondents, will avoid duplication and principally treat the issue of the Secretary's authority to issue a combination of term and revocable supplemental permits for Forest Service lands, substantially similar to those permits affecting the majority of skiing areas throughout the nation, which are not unlike that proposed for issuance to Walt Disney Productions, Inc. in the instant case pursuant to the Organic Administration Act of June 4, 1897, sec. 1, 30 Stat. 35, 16 U.S.C. sec. 551, and the Act of March 4, 1915, 38 Stat. 1101,

as amended by the Act of July 28, 1956, 70 Stat. 708, 16 U.S.C. sec. 497. *McMichael v. United States*, 355 F. 2d 283 (9th Cir. 1965).

The movants' *amicus curiae* brief will also aid the Court's evaluation of Petitioner's allegations that, as a matter of law, the supplemental permit would not be revocable at will.

The Ninth Circuit held that the Secretary in fact and in law had the authority to issue the subject permit and overruled the District Court's holding that the Secretary does not have the authority to issue revocable permits of this type under 16 U.S.C. 551.

Wherefore, it is respectfully prayed that this motion for leave to file a brief *amicus curiae* be granted.

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Of Counsel:

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